

Message Text

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ACTION SCS-03

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R 180340Z FEB 75

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 6960

LIMITED OFFICIAL USE NEW DELHI 2261

FOLLOWINT TEL SENT ACTION NEW DELHI ON FEB 18. NOW REPEATED
FOR YOUR INFO.

QUOTE

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E.O. 11652: N/A

TAGS: CASC, PFOR, IN

SUBJ: HARCOS/FLETCHER

REF: NEW DELHI 2105

THE FOLLOWING IS IN RESPONSE TO THE REFERENCE CABLE:

1. DUDHWEWALA CONFIRMS THAT THERE WERE AT LEAST TWO MAJOR ITEMS OF EVIDENCE SHOWN TO THE SESSIONS JUDGE PRIOR TO THE FRAMING OF CHARGES WHICH WERE NOT AND HAVE NOT BEEN SHOWN TO THE DEFENSE.
2. STANDING COUNSEL DIPANKAR GUPTA STATED IN COURT THAT ALL DOCUMENTS AND ARTICLES THAT HAD BEEN ORDERED SHOWN TO THE DEFENSE BY THE HIGH COURT UNDER SECTION 209 (C) OF THE INDIAN CRIMINAL CODE (ICC) (I.E. CHARGES, SEIZURE LIST ETC.) HAVE BEEN SHOWN. OTHER DOCUMENTS AND ARTICLES IN ADDITION TO STATEMENTS TAKEN BY POLICE UNDER SECTION 161 OF THE ICC WILL BE SHOWN TO THE DEFENSE AS THEY ARE PRESENTED IN COURT.
3. NO MENTION WAS MADE BY DEFENSE OF THE DISTINCTION OF FLASHING ITEMS OF EVIDENCE AT DEFENSE WITHOUT INSPECTION BY DEFENSE THOUGH

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IT WILL BE IF APPEAL IS PURSUED.

4. DEFENSE HAS NOT RPT NOT DROPPED APPEAL RE FRAMING OF CHARGES AND IS DISCUSSING THIS MATTER WITH HARCOS AND FLETCHER WHO WERE TO HAVE MADE DECISION BY FEBRUARY 17.

5. DEFENSE HAS NOT RAISED THE QUESTION OF THE KING GEORGE DOCK AS THEY DID NOT RPT NOT BELIEVE IT AN APPROPRIATE MOMENT. HARCOS AND FLETCHER AGREE WITH DEFENSE ON THIS POINT. THIS MATTER CAN BE RAISED A ANYTIME.

6. THE FOLLOWING IS BACKGROUND AS CONSUL O'NEILL UNDERSTANDS IT. JUSTICE TALUKDAR, ACCORDING TO DUDHWEWALA, BELIEVES THAT THIS IS NOT THE APPROPRIATE TIME FOR THE DEFENSE TO BRING UP THE MATTER OF PRIOR INSPECTION OF DOCUMENTS UNDER SECTION 161 OF THE ICC. HE FEELS THAT THE MATTER SHOULD BE ARGUED IN SESSIONS COURT AT THE END OF THE TRIAL WITH "OUE DEFENSE TAKING THE BENEFIT AND HAVING THE TRIAL VISCATED." IN ADDITION, GUPTA HAS INFORMALLY ADVISED THE DEFENSE THAT IF TALKUDAR HEARS THE APPEAL AND FINDS IN FAVOR OF THE DEFENSE (I.E., DEFENSE IS ALLOWED INSPECTION OF ALL DOCUMENTS UNDER SECTION 161 BEFORE FRAMING OF CHARGES) THE PUBLIC PROSECUTOR JIEN BOSE HAS REQUESTED THAT THE RULE BE APPEALED TO THE SUPREME COURT. GUPTA IS GIVING THE MATTER SERIOUS CONSIDERATION BECAUSE OF THE PRECEDENTS INVOLVED IN OTHER OFFICIAL SECRETS ACT TRIALS.
ROSSELOT
UNQUOTE SCHNEIDER

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